

Exhibit No. 1  
Date 4-1-2015  
Bill No. HB 123

Amendments to House Bill No. 123  
3rd Reading Copy

Requested by Representative Donald Jones

For the Senate State Administration Committee

Prepared by Laura Sankey  
April 1, 2015 (11:01am)

1. Page 2, following line 5.

**Insert:** "(1) "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:

(a) constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;

(b) related to judicial deliberations in adversarial proceedings;

(c) necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and

(d) designated as confidential by statute or through judicial decisions, findings, or orders."

**Renumber:** subsequent subsections

2. Page 2, following line 8.

**Insert:** "(3) "Constitutional officer record" means a public record prepared, owned, used, or retained by a constitutional officer."

**Renumber:** subsequent subsections

3. Page 2, line 23 through line 24.

**Strike:** "any political" on line 23 through "Montana" on line 24

**Insert:** "the executive, legislative, and judicial branches of Montana state government, a political subdivision of the state, a local government, and any agency, department, board, commission, office, bureau, division, or other public authority of the executive, legislative, or judicial branch of the state of Montana"

4. Page 4, following line 17.

**Insert:** "(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency."

**Renumber:** subsequent subsection

5. Page 5, line 20.

**Strike:** "may seek assistance from"

**Insert:** "shall cooperate with"

6. Page 5, line 21.

**Strike:** "regarding"

**Insert:** "in the"

7. Page 5, line 22.

**Following:** "plan"

**Insert:** "using [sections 13 through 21] as guidance"

8. Page 6, line 17.

**Strike:** "WHOSE" through "DENIED"

**Insert:** "alleging a deprivation of rights"

9. Page 6, line 19.

**Strike:** "MUST"

**Insert:** "may"

10. Page 11, following line 5.

**Insert:** "(vi) the governor;"

**Renumber:** subsequent subsections

11. Page 20, following line 3.

**Insert:** "(5) A state agency or a third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer."

12. Page 21, line 23.

**Strike:** "accurate and appropriate minutes"

**Insert:** "minutes taken in compliance with subsection (2)"

13. Page 21, line 28.

**Strike:** "who alleges a violation and"

**Insert:** "alleging a deprivation of rights"

14. Page 21, line 29.

**Strike:** "plaintiff's"

**Insert:** "person's"

**Strike:** "must"

**Insert:** "may"

15. Page 23, line 27.

**Following:** "confidential"

**Insert:** "information as defined in [section 2]"

16. Page 23, line 28.

**Strike:** "under [section 3]"

17. Page 25, line 16.

**Following:** "confidential"

**Insert:** "information as defined in [section 2]"

18. Page 25, line 17.

**Strike:** "under [section 3]"

19. Page 28, line 8 through line 9.

**Strike:** "exempt" on line 28 through "[section 3]" on line 9

**Insert:** "confidential information as defined in [section 2]"

20. Page 29, line 5 through line 6.

**Strike:** "exempt" on line 5 through "any other" on line 6

**Insert:** "confidential information as defined in [section 2] and  
is exempt from any"

21. Page 35, line 22.

**Following:** "information"

**Strike:** "may not be considered a public record"



**Insert:** "is confidential information as defined in [section 2]"

22. Page 35, line 23.

**Strike:** "under [section 3]"

23. Page 40, line 3.

**Following:** "~~chapter 6~~"

**Insert:** ", are confidential information as defined in [section 2],"

24. Page 42, line 12 through line 13.

**Strike:** "under" on line 12 through "[section 3]" on line 13

25. Page 44, line 27.

**Insert:** "COORDINATION SECTION. Section 61. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 25 of this act] must be amended as follows:

"NEW SECTION. Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number ~~or tax identification number;~~

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account;

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or  
(vi) an identity protection personal identification number  
issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency."

**Insert:    "COORDINATION SECTION.   Section 62.   Coordination**

**instruction.** If both House Bill No. 74 and [this act] are passed and approved, then [section 27 of this act] must be amended as follows:

**"NEW SECTION.   Section 27.   Notification of breach of security of data system.** (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an



unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration and to the attorney general's consumer protection office an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer and the consumer protection office."

**Insert:** "COORDINATION SECTION. Section 63. Coordination instruction. If both House Bill No. 448 and [this act] are passed and approved and if both contain a section that amends 2-3-221, then House Bill No. 448 is void."

**Renumber:** subsequent section

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